

# PATENT COOPERATION TREATY

REC'D 30 SEP 2005

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From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:  
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## PCT

NOTIFICATION OF TRANSMITTAL OF  
INTERNATIONAL PRELIMINARY  
REPORT ON PATENTABILITY  
(Chapter II of the Patent Cooperation Treaty)

(PCT Rule 71.1)

Date of mailing  
(day/month/year)

28 SEP 2005

Applicant's or agent's file reference

032168813PCT

**IMPORTANT NOTIFICATION**

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US04/42696

17 December 2004 (17.12.2004)

19 December 2003 (19.12.2003)

Applicant

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the *PCT Applicant's Guide*.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed invention is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the IPEA/ US

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Form PCT/IPEA/416 (January 2004)

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 30 SEP 2005

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PCT

Applicant's or agent's file reference 032168813PCT	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/US04/42696	International filing date (day/month/year) 17 December 2004 (17.12.2004)	Priority date (day/month/year) 19 December 2003 (19.12.2003)	
International Patent Classification (IPC) or national classification and IPC IPC(7): H04L 12/28 and US Cl.: 370/338, 352			
Applicant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:

a. ☐ (sent to the applicant and to the International Bureau) a total of \_\_\_ sheets, as follows:

☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) \_\_\_\_\_, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

☒ Box No. I Basis of the report

☐ Box No. II Priority

☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

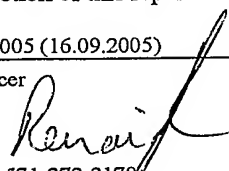
☐ Box No. IV Lack of unity of invention

☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

☐ Box No. VI Certain documents cited

☒ Box No. VII Certain defects in the international application

☐ Box No. VIII Certain observations on the international application

Date of submission of the demand 15 July 2005 (15.07.2005)	Date of completion of this report 16 September 2005 (16.09.2005)
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer Chi Pham  Telephone No. 571-272-3179

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/42696

## Box No. I Basis of the report

1. With regard to the language, this report is based on:
- ☐ the international application in the language in which it was filed.
  - ☐ a translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
    - ☐ international search (under Rules 12.3 and 23.1(b))
    - ☐ publication of the international application (under Rule 12.4(a))
    - ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
- ☐ the international application as originally filed/furnished
  - ☒ the description:
    - pages 1-16 as originally filed/furnished
    - pages\* NONE received by this Authority on \_\_\_\_\_
    - pages\* NONE received by this Authority on \_\_\_\_\_
  - ☒ the claims:
    - pages 17-19 as originally filed/furnished
    - pages\* NONE as amended (together with any statement) under Article 19
    - pages\* NONE received by this Authority on \_\_\_\_\_
    - pages\* NONE received by this Authority on \_\_\_\_\_
  - ☒ the drawings:
    - pages 1-2 as originally filed/furnished
    - pages\* NONE received by this Authority on \_\_\_\_\_
    - pages\* NONE received by this Authority on \_\_\_\_\_
  - ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
  - ☐ the claims, Nos. \_\_\_\_\_
  - ☐ the drawings, sheets/figs \_\_\_\_\_
  - ☐ the sequence listing (*specify*): \_\_\_\_\_
  - ☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
  - ☐ the claims, Nos. \_\_\_\_\_
  - ☐ the drawings, sheets/figs \_\_\_\_\_
  - ☐ the sequence listing (*specify*): \_\_\_\_\_
  - ☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/US04/42696**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

## 1. Statement

Novelty (N)

Claims 6-8 and 16-18 YESClaims 1-5, 9-15, and 19-27 NO

Inventive Step (IS)

Claims NONE YESClaims 1-27 NO

Industrial Applicability (IA)

Claims 1-27 YESClaims NONE NO2. Citations and Explanations (Rule 70.7)  
Please See Continuation Sheet

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/42696

**Box No. VII**    **Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

Claims 1, 7, and 8 are objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof:

With respect to claim 1, in line 4, the article "a" before "their" should be deleted and in line 7, it should read as "in the network of clients", not "to the network of clients".

With respect to claims 7 and 8, in line 1, "said step of choosing" lacks antecedent basis.

## Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

**V. 2. Citations and Explanations:**

Claims 1-5, 9-15, and 19-27 lack novelty under PCT Article 33(2) as being anticipated by Li et al (US Patent No. 6,119,162).

With respect to claims 1, 13, 22, and 25, Li discloses in Fig. 1, LAN 10 (providing a communication protocol between the network of clients) includes a plurality of computers (establishing a network of clients). Li discloses (col. 5, lines 59-64) that some of computers 12 may be connected to ISP 16 through, for example, a cable line, while others of computers 12 are connected to ISP 16 through public telephone lines 18. Other configurations having multiple public telephone lines may also be used (wherein at least a plurality of clients in the network of clients having their own associated communication resource connection). Li discloses (col. 4, line 66 - col. 5, line 3) that the development of gateway software or proxy server software, permits all of the computers on LAN 10 to share public telephone line 18 and access to ISP 16 (providing a protocol for sharing the communication resource connections of the at least some of the clients in the network of clients). Li discloses (col. 6, lines 1-3) that each of the computers may connect to more than one active server, to provide additional network bandwidth (spreading communications from a client in the network of clients among the communication resource connections of the at least a plurality of the clients in the network).

With respect to claims 2, 4, and 14, Li discloses (col. 6, lines 7-11) that LAN 10 could also comprise connections made via power lines, telephone lines, wireless connections made via infrared or RF transmission (a wireless protocol that is implemented via a wireless medium).

With respect to claims 3 and 23, Li discloses in Fig. 1, that computers of LAN 10 access the Internet via the public lines 18 (communication resource access comprises Internet access and the communication resource connections of the network of clients comprise Internet access connections).

With respect to claims 5, 9-12, 15, and 19-21, Li discloses (col. 2, lines 32-37) that computers on the LAN are configured to send their requests to the proxy server software running on one particular computer on the network. The proxy server software then sends the request to the appropriate place on the Internet, receives any response, and sends the response back to the appropriate computer on the LAN (accepting client session requests for a session with a device outside of the network of clients; and providing a proxy between the device outside of the network of clients and a client requesting a client session).

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/US04/42696

Supplemental Box

With respect to claims 24 and 27, Li discloses in Fig. 1, that a server is selected among a plurality of computers in a LAN, therefore, packets from other computers to be transmitted are forwarded to the selected server (forwarding packets of other clients in the community to an appropriate gateway device in the community).

With respect to claim 26, Li discloses (col. 5, lines 59-64) that some of computers 12 may be connected to ISP 16 through, for example, a cable line, while others of computers 12 are connected to ISP 16 through public telephone lines 18. Other configurations having multiple public telephone lines may also be used (separate communication resource accounts of clients comprise separate Internet access accounts).

Claims 6-8 and 16-18, lack an inventive step under PCT Article 33(3) as being obvious over Li et al (US Patent No. 6,119,162).

With respect to claims 6-8 and 16-18, Li discloses in Fig. 1, a method and apparatus for dynamic Internet server selection. Li does not disclose that choosing one of the Internet access connections based upon usage pattern, on a packet basis, and on a session basis. However, network balancing is well known in the art for distributing traffic across multiple lines according to time of the session, length of the packets, and congestions. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include network balancing technique in Li's system, to prevent a link from overloaded and failure occurs.

----- NEW CITATIONS -----

NONE